

ESTTA Tracking number: **ESTTA605627**Filing date: **05/21/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Resignation Holdings, LLC
Granted to Date of previous extension	05/21/2014
Address	c/o Ivor-Smith Law, PC 464 Royce Street Altadena, CA 91001 UNITED STATES
Attorney information	Randal Ivor-Smith Ivor-Smith Law, PC 464 Royce Street Altadena, CA 91001 UNITED STATES randal@ivor-smith.com Phone:213-321-0178

Applicant Information

Application No	86051865	Publication date	01/21/2014
Opposition Filing Date	05/21/2014	Opposition Period Ends	05/21/2014
Applicant	Allenback, Aimee 16 Apache Trail Myrtle Beach, SC 29588 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Providing a members-only website featuring technology which provides members with the ability to view photographs


Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Likelihood of Confusion


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	4334730	Application Date	09/21/2012
Registration Date	05/14/2013	Foreign Priority Date	NONE

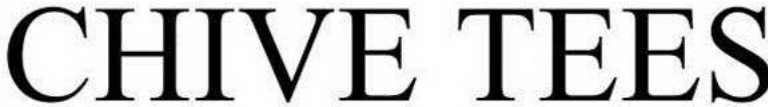
Word Mark	THE CHIVERY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2010/03/01 First Use In Commerce: 2010/03/01 On-line retail store services featuring clothes, namely, T-shirts, socks and underwear, and cups, mugs, cell phone covers and posters

U.S. Registration No.	4358082	Application Date	11/20/2012
Registration Date	06/25/2013	Foreign Priority Date	NONE
Word Mark	CHIVE ON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/05/15 First Use In Commerce: 2011/05/15 Clothing, namely, T-shirts		

U.S. Registration No.	4358083	Application Date	11/20/2012
Registration Date	06/25/2013	Foreign Priority Date	NONE
Word Mark	KCCO		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2012/05/18 First Use In Commerce: 2012/05/18 Clothing, namely, T-shirts and sweatshirts

U.S. Registration No.	4364327	Application Date	11/09/2012
Registration Date	07/09/2013	Foreign Priority Date	NONE
Word Mark	THECHIVE		
Design Mark			
Description of Mark	The mark consists of the all lower caseword "the" in white just to the left of the all capitalized word "CHIVE" with the "C" in green and the "HIVE" in white. The color black represents background only and is not a feature of the mark.		
Goods/Services	Class 035. First use: First Use: 2008/11/07 First Use In Commerce: 2008/11/07 Provision of space on a website for advertising goods and services		


U.S. Registration No.	4521901	Application Date	09/27/2013
Registration Date	04/29/2014	Foreign Priority Date	NONE
Word Mark	CHIVE TEES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/05/31 First Use In Commerce: 2011/05/31 Clothes, namely, shirts, sweatshirts, and infant body suits		


U.S. Application No.	86036554	Application Date	08/13/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CHIVETTE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2013/03/31 First Use In Commerce: 2013/03/31 Hats; Pants; Shirts; Shorts; Underwear

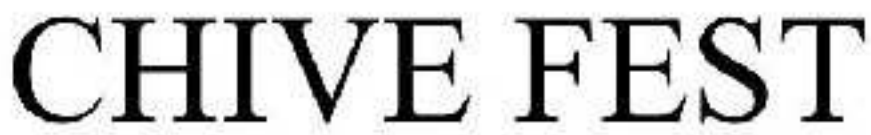
U.S. Application No.	86126069	Application Date	11/21/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CHIVE ON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/01/31 First Use In Commerce: 2012/01/31 Cell phone backplates; Cell phone cases Class 016. First use: First Use: 2011/07/30 First Use In Commerce: 2011/07/30 Bumper stickers; Decalcomanias; Decals; Decals and stickers for use as home decor; Decorative decals for vehicle windows; Decorative stickers for helmets; Stickers; Stickers and decalcomanias		

U.S. Application No.	86074953	Application Date	09/25/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	KEEP CALM AND CHIVE ON		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2011/12/31 First Use In Commerce: 2011/12/31 Cell phone cases, mousepads, and luminous signs Class 025. First use: First Use: 2011/05/15 First Use In Commerce: 2011/05/15 Clothes, namely, shirts, hats, pants, shorts, infant body suits, and underwear

U.S. Application No.	86126086	Application Date	11/21/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THECHIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/01/31 First Use In Commerce: 2012/01/31 Cell phone backplates; Cell phone cases Class 016. First use: First Use: 2011/07/30 First Use In Commerce: 2011/07/30 Bumper stickers; Decalcomanias; Decals; Decals and stickers for use as home decor; Decorative decals for vehicle windows; Decorative stickers for helmets; Stickers; Stickers and decalcomanias		

U.S. Application No.	86255632	Application Date	04/17/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CHIVE FEST		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Shirts; T-shirts Class 041. First use: First Use: 0 First Use In Commerce: 0 Arranging and conducting of concerts; Conducting entertainment exhibitions in the nature of music festivals; Entertainment, namely, live music concerts

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHIVETTE		
Goods/Services	Providing a website for members to view photographs.		

Attachments	85735652#TMSN.jpeg(bytes) 85784105#TMSN.jpeg(bytes) 85784143#TMSN.jpeg(bytes) 85776041#TMSN.jpeg(bytes) 86076937#TMSN.jpeg(bytes) 86036554#TMSN.jpeg(bytes) 86126069#TMSN.jpeg(bytes) 86074953#TMSN.jpeg(bytes) 86126086#TMSN.jpeg(bytes) 86255632#TMSN.jpeg(bytes) Opposition to Loyal Chivette TM application.pdf(3050642 bytes) Exhibit A to Opposition to Loyal Chivette.pdf(2879083 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Randal Ivor-Smith/
Name	Randal Ivor-Smith
Date	05/21/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RESIGNATION HOLDINGS, LLC

Opposer,

v.

AIMEE ALLENBACK

Applicant.

In the Matter of Serial No. 86/051,865

Date of Filing: August 29, 2013

Mark: LOYAL CHIVETTE

Date of Publication: January 21, 2014

Opposition No.: TBD

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

1. Opposer Resignation Holdings, LLC (“Opposer” or “Resignation Holdings”), a Delaware limited liability company whose address is c/o Ivor-Smith Law, PC; 464 Royce Street, Altadena, CA 91001, believes that it will be damaged by registration of the mark shown in the application having Serial No. 86/051,865 (the “Application”) and hereby opposes such registration on the following grounds.

2. Applicant Aimee Allenback (“Applicant”) is an individual whose address is 16 Apache Trail, Myrtle Beach, South Carolina 29588.

3. On August 29, 2013, Applicant filed an “intent-to-use” application to register the word mark LOYAL CHIVETTE as a trademark for “[p]roviding a members-only website featuring technology which provides members with the ability to view photographs.”

4. The Application was published for Opposition in the Official Gazette on January 21, 2014.

5. Opposer requested and was granted extensions of time to oppose the Application until May 21, 2014

ACCORDINGLY, as grounds for Opposition, it is alleged that:

Deceptiveness, False Suggestion of a Connection and Likelihood of Confusion

6. Resignation Holdings is the creator and exclusive owner of all rights to its world-famous theCHIVE Family of Marks, defined below, and the goods and services associated therewith (collectively, “theCHIVE Products and Services”). In particular, Resignation Holdings is the owner of USPTO Trademark registration numbers 4,334,730 for “The Chivery” for on-line retail store services featuring clothes, namely, t-shirts, socks and underwear, and cups, mugs, cell phone covers and posters; 4,358,082 for “CHIVE ON” for clothing, namely, t-shirts; 4,358,083 for “KCCO” for clothing, namely, T-shirts and sweatshirts; 4,364,327 for “theCHIVE” for provision of space on a website for advertising goods and services; and 4,521,901 for “CHIVE TEES” for clothes, namely, shirts, sweatshirts, and infant body suits.

7. Additionally, Resignation Holdings is the owner of USPTO Trademark application serial numbers 86/036,554 for “**Chivette**” for hats, pants, shirts, shorts, underwear; 86/126069 for “CHIVE ON” for bumper stickers, decalcomanias, decals, decals and stickers for use as home décor, decorative decals for windows, decorative stickers for helmets, stickers, stickers and decalcomanias; 86/074953 for “KEEP CALM AND CHIVE ON” for cell phone cases, mousepads, and luminous signs, and for clothes, namely, shirts, hats, pants, shorts, infant body suits, and underwear; 86/126086 for “theCHIVE” for cell phone backplates, cell phone cases, and bumper stickers, decalcomanias, decals, decals and stickers for use as home décor, decorative decals for windows, decorative stickers for helmets, stickers, stickers and decalcomanias; and 86/255632 for “CHIVE FEST” for arranging and conducting of concerts, conducting entertainment exhibitions in the nature of music festivals, entertainment, namely, live music concerts.

8. Finally, Resignation Holdings is the owner of nationwide and worldwide common law Trademark rights to the use of the word mark “**Chivette**” for providing a website for

members to view photographs. Resignation Holdings has been using the mark “Chivette” in association with website services for members to view photographs continuously since March 31, 2013.

9. Resignation Holdings markets theCHIVE Products and Services under its family of trademarks including without limitation, The Chivery, CHIVE ON, KCCO, theCHIVE, CHIVE TEES, Chivette, KEEP CALM AND CHIVE ON, theCHIVE, and CHIVE FEST, among others (collectively, “theCHIVE Family of Marks”). Resignation Holdings has used theCHIVE Family of Marks in connection with its distinctive theCHIVE Products and Services for over five years. In addition, Resignation Holdings has engaged in extensive marketing and promotion of theCHIVE Products and Services bearing theCHIVE Family of Marks and has enjoyed significant sales of such merchandise. Resignation Holdings has received widespread, highly favorable publicity about theCHIVE Products and Services throughout various media. As a result of such longstanding, substantial and continuous use, theCHIVE Family of Marks and theCHIVE Products and Services have long been immediately recognized by consumers and the trade as identifying Resignation Holdings exclusively as the single source of these well-respected products and services. Simply stated, theCHIVE Family of Marks have become strong, famous trademarks entitled to a broad scope of protection and are included in Resignation Holdings’ most important business assets.

10. Applicant’s “LOYAL CHIVETTE” mark consists of a mark which, when applied to the services of Applicant, creates a deceptive, false and misleading suggestion of a connection with theCHIVE Family of Marks and theCHIVE Products and Services creating a likelihood of consumer confusion as to the source of Applicant’s services, and said mark cannot acquire distinctiveness or secondary meaning such that consumers are likely to believe that Applicant is the source of said items.

11. Attached hereto as **Exhibit A** and incorporated by reference herein, are printouts from Resignation Holdings’ websites documenting the promotion, distribution and sale of identical goods (a website featuring photographs) and related goods (clothing and other

promotional goods sold on the websites) that demonstrate Resignation Holdings' prior use of the mark "CHIVETTE."

12. Opposer has, since at least March 31, 2013, used the unique mark "CHIVETTE" on its websites which are interactive.

13. Regardless of the ultimate disposition of Opposer's pending applications, Opposer intends to promote and sell products and services which are of a related nature to Applicant's services, and which Opposer has a valid and legal right to describe by use of a mark confusingly similar to the mark sought to be registered by Applicant. Opposer is likely to be damaged by registration of the mark "LOYAL CHIVETTE" in that the *prima facie* effect of such registration will tend to impair Opposer's right to use of the term "CHIVETTE." In view of the above allegations, Applicant is not entitled to federal registration of the proposed mark in that Applicant is not entitled to exclusive use of the word "CHIVETTE" in commerce on the services specified and further, in that Applicant's proposed mark does not function to identify Applicant's services and distinguish them from those offered by others.

Fraud

14. On information and belief, Applicant lacked any bona fide intent to use the "LOYAL CHIVETTE" mark in commerce when it filed the Application on August 29, 2013. An initial investigation by Opposer has elicited no evidence suggesting that the mark was used in connection with any goods or services by Applicant as of the date of this Opposition.

15. On information and belief, Applicant has knowingly made false and material representations of fact in order to induce the PTO to register the "LOYAL CHIVETTE" mark under International Class 042.

16. On information and belief, based on the aforementioned facts, Applicant has knowingly made material false statements and committed fraud in order to procure rights to which she is not entitled.

WHEREFORE, Opposer Resignation Holdings, LLC prays that this Opposition be sustained and that the registration of Applicant's mark in application Serial No. 86/051,865 be refused. The filing fee under 37 C.F.R. Section 2.6(a)(17) is submitted concurrently herewith.

Respectfully submitted:

Dated: May 21, 2014

By:



Randal Ivor-Smith (CA Bar No. 222100)

Ivor-Smith Law, PC

464 Royce Street

Altadena, CA 91001

Telephone: (213) 321-0178

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Email: randal@ivor-smith.com

CHIVETTES



THECHIVE GOT A PARTY BOAT,
THINGS HAPPENED (45 HQ
PHOTOS)



THERE ARE SEXY CHIVERS
AMONG US (96 PHOTOS)



THE NEWLY SINGLE CHIVETTES
HAVE COME OUT TO PLAY (32
PHOTOS)



Submit original awesome photos!

the **CHIVE** **VIRAL**

Click [HERE](#) to upload!

The Newly Single Chivettes have come out to play (32 Photos) 815

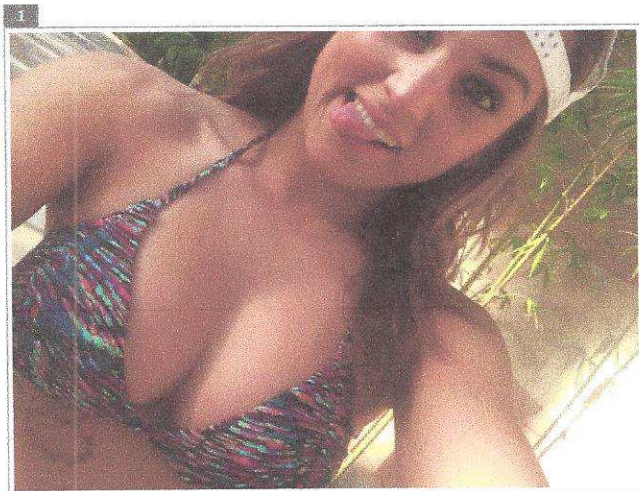
MAY 14, 2014 | IN: FUEGO, GIRLS, HOT WOMEN, SEXY CHIVERS, SPONSORED 4

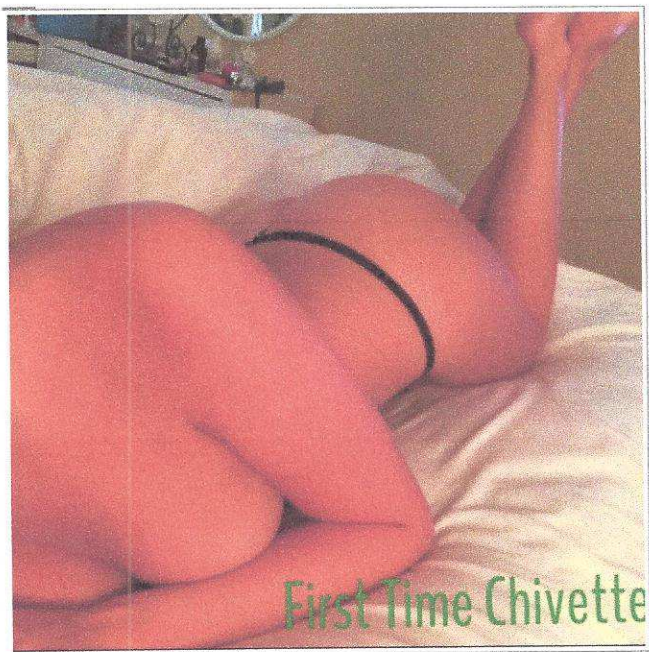


FOLLOW JOHN ON TAPITURE

Presented by

the **CHIVE** | DATING
POWERED BY  howaboutwe...





CHIVETTE ATHLETIC

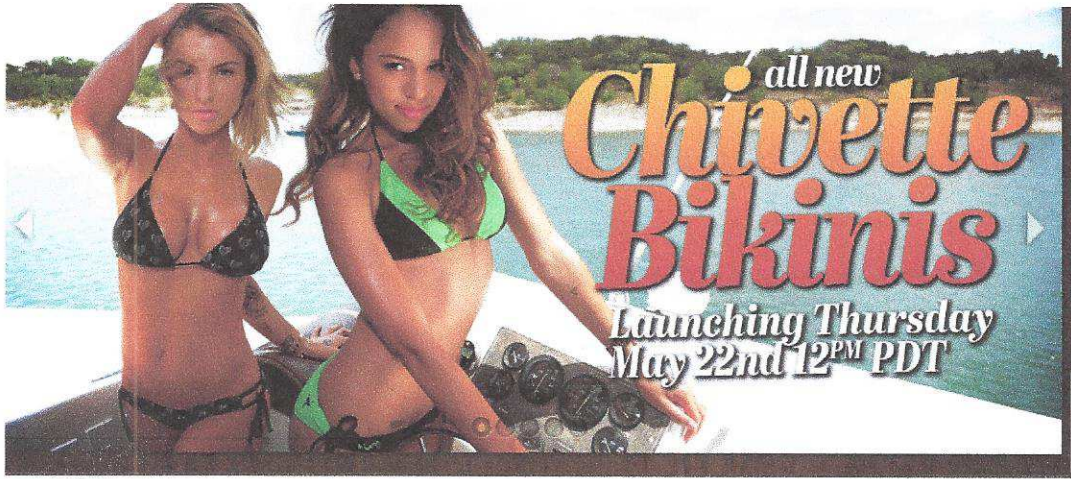


CHIVETTE ATHLETIC

FILTER BY SIZE

S M L XL 2XL 3XL







PRODUCT PHOTOS

CHIVETTE LOGO TANK

\$28.00

The All New Chivette Logo Tank has almost arrived!

We've retooled the whole Chivette experience starting with a wholly new and modern Chivette logo. In addition to our logo, we've created a custom racerback tank with the help of our lovely product testers to make sure the fit is just right.

Are you a Chivette? Show us!

COLOR:



SIZE:

S

M

L

XL

Don't know your size? [SIZE CHART](#)

• ADD TO CART

Out of
Stock?

GET NOTIFIED

CHIVETTE BASEBALL TEE

\$28.00

CUT & SEW

Go Team Chivette!

Show your sporty side in this classic baseball tee. Featuring a vintage Chivette logo and contrast sleeves, this is the perfect Sunday Funday or lazy weekend tee.

Super cute and super comfy, thanks to our deliciously soft and stretchy fabric and custom cut & sew fit.

Made to be light, so you can look hot and stay cool on those warm Summer days. This tee is a must-have!

COLOR: ☐ ☒ ☐

SIZE: ☐ S ☐ M ☒ L ☐ XL

Don't know your size? [SIZE CHART](#)

ADD TO CART

Out of
Stock?

GET NOTIFIED

PRODUCT PHOTOS



Like 184 Tweet



Probably the Best T-Shirts in the World

POWERED BY
theCHIVE

Search the CHIVERY

Chivette Snapback

Products

- All
- T-Shirts
- Cool Shit
- First Look
- Posters
- Bargain Basement
- Office Live Cam

Brands

- CHIVE Tees
- CHIVE Golf
- Chivette
- Chivette Athletic
- theBERRY
- Chive Kids
- Banksy Tees
- Buy Me Brunch
- Headline Shirts
- Glennz Tees
- LinePosters

Newsletter

Keep up with theCHIVERY news, sales, special offers and promotions!



NEW

\$29.95

Add to Cart



When we asked our sexy product testers what they would want to wear they responded in unison, "a kickass Chivette hat!" Well, they asked and we delivered.

Introducing the new "kickass" Chivette Snapback hat.

One size fits all. As long as you are a Chivette, of course!

What's my size? [Sizing Chart](#)

Customers who bought this also bought:





PRODUCT PHOTOS

IPHONE CASES

\$12.95

Chivettes asked for them and here they are! The Chivette iPhone cases have arrived!

Sport these sweet cases on your iPhone 5/5S or iPhone 4/4S and show the whole world that you are a Chivette.

These durable, protective cases are very high quality and are made to last.

Two styles available.

Chivette iPhone 4/4S Case - Stripes - \$12.95

ADD TO CART

f Like 23 t Tweet

OLIVETTE

poly-cotton blend • wash cold
dry low heat • made in USA

www.olivette.com

L